

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEITH DANIEL SKUNKCAP,

Defendant.

CR 12-92-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on February 11, 2016. Defendant admitted he had violated Special Condition 5 of his supervised release by consuming alcohol. Judge Johnston found the admission sufficient to establish the supervised release violation. He recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of seven months, with no supervised release to follow.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated Special Condition 5. Defendant could be incarcerated for up to 24 months, followed by 20 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of three to nine months. A sentence of seven months in custody, followed by no supervised release is appropriate. Defendant has violated the terms of his supervised release on three prior occasions. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 81) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 1st day of March, 2016.



Brian Morris
United States District Court Judge